.HE 1

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 472 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

SALIM ALIAS JAGO MOHAMMEDBHAI SANGHI

Versus

STATE OF GUJARAT

Appearance:

MR ZUBIN F BHARDA for Petitioner

Mr H L Jani, APP for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR
Date of decision: 27/08/98

ORAL JUDGEMENT

Heard the learned Advocates for the parties. The petitioner was served with show cause notice dated 6.11.1997 under section 59 of the Bombay Police Act, calling upon him to show cause as to why he should not be externed from the districts of Rajkot City, Rajkot (Rural) and Surendranagar for a period of two years on account of his indulgence in prejudicial activities. The petitioner was externed by the impugned order dated 17.3.1998 passed by respondent No.2-Dy.Police Commissioner, Rajkot City. The said order has been confirmed in appeal by the State Government.

2. Mr Zubin Barda, learned Advocate appearing for the petitioner relying on a Division Bench judgment of this Court in the case of Ranchhod Ramji Machi v. B J Gadhvi, Dy.Police Commissioner, Surat, rewported in 1987 (1) GLR p 1, submits that the impugned order is ex=facie illegal and void as in the notice there is no mention regarding the period during which the alleged acts are said to have been committed as well as the area where they seem to have been committed. The learned AGP submits that this fact finds place in the impugned order. However, it is not in dispute that the said facat does not find place in the show cause notice. In my view, non-mentioning of the area of operation and the period have seriously prejudiced the petitioner in replying the show cause notice. Thus, following the decision of the Division Bench referred to above, the order of externment is held to be illegal and void. This Special Criminal Application is accordingly allowed. The impugned order dated 17.3.1998 passed by the Dy.Commissioner of Police is quashed and set aside. Rule made absolute accordingly.

....

msp.